

VZCZCXRO9763
PP RUEHLMC RUEHVK
DE RUEHUM #0483/01 2362317
ZNR UUUUU ZZH
P 242317Z AUG 07
FM AMEMBASSY ULAANBAATAR
TO RUEHC/SECSTATE WASHDC PRIORITY 1407
INFO RUEHBJ/AMEMBASSY BEIJING PRIORITY 5729
RUEHOT/AMEMBASSY OTTAWA PRIORITY 0492
RUCPODC/USDOC WASHDC PRIORITY 1361
RUEHUL/AMEMBASSY SEOUL 2903
RUEHMO/AMEMBASSY MOSCOW 1875
RUEHTA/AMEMBASSY ASTANA
RUEHML/AMEMBASSY MANILA 1439
RUEHLO/AMEMBASSY LONDON 0178
RUEHKO/AMEMBASSY TOKYO 2615
RUEHBK/AMEMBASSY BANGKOK 1518
RUEHBY/AMEMBASSY CANBERRA 0164
RUEHSH/AMCONSUL SHENYANG 0307
RUEHVK/AMCONSUL VLADIVOSTOK 0140
RUEHOK/AMCONSUL OSAKA KOBE 0039
RHEBAAA/DEPT OF ENERGY WASHDC
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHINGTON DC 0682
RHEHNSC/NSC WASHDC
RUEKJCS/SECDEF WASHDC
RUEATRS/DEPT OF TREASURY WASHDC

UNCLAS SECTION 01 OF 02 ULAANBAATAR 000483

SIPDIS

SENSITIVE
SIPDIS

STATE FOR EAP/CM AND EB/IFD/OIA
STATE PASS USTR, EXIM, OPIC, AND EPA
STATE PASS AID/ANE D. WINSTON
MILLENNIUM CHALLENGE CORP WASHDC FOR F. REID
TREASURY PASS USEDTS TO IMF, WORLD BANK
MANILA AND LONDON FOR USEDTS TO ADB, EBRD

E.O. 12958: N/A
TAGS: [ELTN](#) [ETRD](#) [PREL](#) [PGOV](#) [MG](#)
SUBJECT: MONGOLIAN GOVERNMENT WALKS BACK ITS REVOCATION OF MINING
RIGHTS - A BIT

Reftel: Ulaanbaatar 0478

SENSITIVE BUT UNCLASSIFIED - NOT FOR INTERNET DISTRIBUTION

1. (SBU) SUMMARY. Post met with Ministry of Industry and Trade Vice Minister (VM) Sodbaatar to discuss several issues, among them the recent virtual "expropriatory" revocation of 34 exploration licenses owned by 18 firms by the Government of Mongolia (GOM). The VM denied that licenses had been revoked, claiming that firms had misunderstood the written communication from the GOM. He stated that the firms would need to conform to the new mining law as soon as possible or risk losing their licenses, and he blamed firms for being slow to follow Mongolia's new mining law. The VM promised to formally inform all affected firms of the GOM's decision to give them sufficient time to change their licenses. Businesses appreciated the breathing space, but totally disagreed that they were flouting Mongolia's mining laws, arguing that an insufficient regulatory framework prevented them from complying with Mongolia's law. Post will continue to monitor the GOM's walk back on revocation, but believes that a lack of clear regulatory framework might allow another debacle such as this occur. In any case, Mongolia's reputation as safe place to do business has, for the moment, been savaged. END SUMMARY.

2. (SBU) In reftel post described the Government of Mongolia's revocation of the exploration licenses of 18 firms on 34 sites without prior warning, consultation, or any internal review of the action. The DCM reviewed this GOM action with Vice Minister of Industry and Trade (MIT) Sodbaatar. The DCM sought the VM's explanation, noting that the decision seemed expropriatory on its face, and that the USG highly disapproved of expropriation of private property rights. Referring to comments made by both

Mongolian and foreign business people, the DCM also emphasized the damage done to Mongolia's reputation as a "predictable" and safe place to invest for mining or other endeavors. The DCM then asked how the GOM planned to respond, adding a letter had been sent to MRPAM seeking an explanation; no response had been received.

13. (SBU) Without explaining how it happened that a low level functionary could send out a letter of such import, the VM acknowledged that the GOM had erred in sending out a letter to the firms that was unclear on exactly what was to be done about the exploration licenses. He stated that it was the GOM's intention to warn the 18 licensees of the need to change their licenses from exploration permits to mining licenses or risk revocation of their rights as set out in Article 60 of the amended Minerals Law of Mongolia (2006); however, there was no intent to take their licenses if they conformed to the provision.

14. (SBU) He then went on to criticize the firms, saying that they had ample time to change their licenses but had failed to do so out of laziness or disrespect for Mongolia's laws. The VM then formally committed to send out the Head of the MIT's Mining Department to personally explain the exact process to each of the 18 firms and committed to send a letter to each firm confirming the Head's statements.

15. (SBU) Post has received confirmation from affected firms that the Head of Mining will speak to them next week and that a written statement of that revocation will not occur if the firms change their licenses as required by the new law. The firms are willing to do this, but have told post that they disagree with MIT's interpretation of why they delayed changing their licenses. Far from being dilatory or flouting Mongolia's laws, the businesses argue

ULAANBAATA 00000483 002 OF 002

that they could not change their licenses because the GOM had not drafted regulations to allow the firms to do so, and in absence of such regulations GOM agencies refused to act. In addition, mining licenses require accurate reserve estimates and the GOM was dragging its heels on registering reserve estimates; and so, would issue no licenses.

16. (SBU) Both the Econoff and Commoff spoke with their counterpart from the Canadian Embassy in Beijing about the revocation and post's response to it. The Canadian advised that a letter of protest would be forthcoming from either the Ambassador Wright in Beijing or from the Canadian Foreign Minister within the week of August 27. And the British Ambassador approached the Ambassador about a possible joint demarche.

17. (SBU) COMMENT: Post is certainly relieved that the GOM walked back from revocation, which goes some way to calming jangled investor nerves. Unfortunately, no matter what the GOM does or says at this point, the damage to its reputation is substantial. At the very least the GOM seems incompetent because it issued an order with properly vetting it; at worst, some now see the GOM as attempting to use a new law to steal from the rightful holders. At this point, post will monitor the situation to see if the GOM honors its commitment to walk back from revocation. Beyond this, post will work the mining industry, the GOM, and other parties to clarify regulations and procedures on the new mining law as soon as possible to avoid these sorts of debacles. END COMMENT.

MINTON